

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

DAVID FINNEMAN,

Plaintiff,

v.

Case No. 5:23-cv-05034-KES

UNITED STATES DEPARTMENT OF  
AGRICULTURE, RISK MANAGEMENT  
AGENCY, and FEDERAL CROP  
INSURANCE CORPORATION,

Defendants.

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**PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

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COMES NOW the Plaintiff, David Finneman, by and through counsel, and pursuant to Rule 56(a) of the Federal Rules of Civil Procedure moves this Court for summary judgment on the sole legal issue on whether the Defendants United States Department of Agriculture, Risk Management Agency, and Federal Crop Insurance Corporation (hereinafter the "Agency Defendants") were obligated under 7 CFR §400.352(b)(4) to provide a noncompliance determination, *i.e.* a determination that Producer's Agriculture Insurance Company (Pro Ag or AIP), its employee, agent or loss adjuster failed to comply with the terms of the policy or procedures issued by FCIC and such failure resulted in the insured receiving payment in an amount that is less than the amount to which the insured was entitled. In support of Plaintiff's Motion Summary for Judgment, David Finneman files herewith his Memorandum Brief in Support of Plaintiff's Motion for Summary Judgment and the Plaintiff's Statement of Undisputed Facts.

WHEREFORE, PREMISES, CONSIDERED, Plaintiff David Finneman prays that this Court grant him summary judgment against the Agency Defendants and hold that Risk Management Agency and Federal Crop Insurance Corporation are obligated to provide a determination as to whether Pro Ag, its employees, agents or loss adjusters failed to comply with the terms of the policy or procedures issued by FCIC and whether such failure resulted in Plaintiff David Finneman received payment in an amount that is less than the amount to which he was entitled; and for such other and further relief as may be just and proper.

Respectfully submitted,

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(Admission *Pro Hac Vice*)

**CERTIFICATE OF SERVICE**

I, NAOMI R. CROMWELL, attorney for Plaintiff in the above styled and numbered cause, do hereby certify that I have this day served by electronic means through the Court's electronic filing system pursuant to Fed. R. Civ. P. 5(b)(2)(E) a true and correct copy of the foregoing pleading to Stephanie Bengford, AUSA, District of South Dakota, 325 South First Avenue, Suite 300, Sioux Falls, South Dakota 57101-2638.

THIS, the 25<sup>th</sup> day of March, 2024.

*/s/Naomi R. Cromwell*  
NAOMI R. CROMWELL